



Washington State
Department of Health
Board of Osteopathic Medicine and Surgery
Meeting Minutes
March 14, 2008

The meeting of the Washington State Board of Osteopathic Medicine and Surgery was called to order by Daniel Dugaw, DO, Chair, at 9:04 a.m. The meeting was held at: St. Francis Hospital, 34515 9th Avenue South, Federal Way, Washington 98003.

Board Members Present: Daniel Dugaw, DO, Chair
William Gant, Public Member, Vice Chair
Thomas Shelton, DO
Peter Kilburn, DO
Roger Ludwig, DO
Larry Smith, DO

Staff Present: Blake Maresh, Executive Secretary
Arlene Robertson, Program Manager
Erin Obenland, Disciplinary Program Manager
Joe Mihelich, Administrative Staff
Melissa Burke-Cain, Assistant Attorney General

Guests Present: Kathie Itter, Executive Director,
Washington Osteopathic Medical Association

Open Session

1. Call to Order
 - 1.1 Approval of Agenda

The agenda was approved as published.

1.2 Approval of Minutes - January 25, 2008 meeting

The minutes of the January 25, 2008 meeting were approved.

1.3 Approval of Minutes - February 6, 2008 conference call minutes

The February 6, 2008 conference call minutes were approved.

1.4 Approval of Minutes - February 20, 2008 conference call minutes

The February 20, 2008 conference call minutes were approved.

2. Licensing

2.1 RCW 18.130.370 Prohibition on practicing in another state-Prohibited from practicing in this state until proceedings of appropriate disciplining authority are completed. Discuss implications of law relative to applicants and licensees.

ISSUE

The RCW was discussed with the Board. This section is a recent addition to the Uniform Disciplinary Act. The law applies to both applicants and current licensees. The Board must deny a license or suspend a current license if the individual has been restricted from practicing in another state until the Board has assessed the circumstances and made a final decision.

ACTION

No action was required. The discussion was informational and intended to clarify the Board's role and options available in these situations.

3. Rules - Update status

3.1 Mandatory Reporting Rules

Staff indicated the hearing for the mandatory reporting rules was held but the CR103 has not been filed. It appears mandatory reporting provisions in HB 1103 will make it necessary to change the current language. The Board will be kept advised of any proposal to the revise the rules.

3.2 Non-Surgical Cosmetic Procedures

3.2.1 FDA MedWatch-Botox and Botox Cosmetic (Botulinum toxin Type A) and Myobloc

(Botulinum toxin Type B)-Reports of Respiratory
Compromise and Death

The Board was provided recent information on the dangers associated with the use of Botox for cosmetic purposes. There has been no additional information from the Medical Commission relative to its rules.

3.3 Implementation of ESHB 1414 - Discuss progress of rules
3.3.1 Final Recommendations Draft Report from
Facilities and Services Licensing

ISSUE

The draft recommendations from Facilities and Services Licensing (FSL) for licensing Ambulatory Surgical Facilities (ASF) that administer anesthesia were reviewed. The recommendations include minimum standards, conducting surveys, fees, and quality improvement programs.

ESHB 1414 specifies the Board has rule making authority relative to sedation and anesthesia. However, after July 1, 2009 all ASFs that use anesthesia must be licensed. The Board's rules will only regulate surgical practices which use sedation.

Ms. Robertson shared rules recently adopted by the Arizona Medical Board for office-based surgery using sedation. The rules are clearly written and appear to be a good model to adapt for drafting the Board's rules.

Ms. Robertson reported she attended the February Medical Commission's policy committee's discussion of the OBS rules. The committee proposed requiring accreditation by one of the national organizations to perform any type of office-based surgery. Their proposal will be shared when it is available.

ACTION

Dr. Smith indicated he would be willing to work on a proposal to bring back to the May meeting. Ms. Robertson will send him the background information that has been collected since the issue had been under consideration.

4. Program Manager Reports
4.1 Budget Report - March 2008

Ms. Robertson reported the budget is reflecting a positive balance. There have not been any large disciplinary expenditures this biennium to negatively impact the budget.

4.2 Washington Physicians Health Program - January 2008
Statistical Information

4.2.1 WPHP Deliverables Review February 2008

The recent statistical information from WPHP was provided. The Department of Health deliverables review was also shared. Programs using WPHP reported all of the contract elements were being received.

4.3 Activity and Disciplinary Reports

4.3.1 2005

4.3.2 2006

4.3.3 2007

Annual statistical and activity reports were provided for the previous three years. The reports compare statistics for the last five years for numbers of licenses and cases, including total complaints, total investigations, length of open cases by case type, etc. The reports are intended to help the Board understand their overall workload.

4.4 Authorizing Associate Member Status to Federation of
State Medical Boards

ISSUE

Mr. Maresh requested the Board submit his name for appointment as an Associate Member to the Federation of State Medical Boards. The Federation has allotted an Associate Member position to be elected to the Board of Directors.

ACTION

The Board approved submitting Mr. Maresh's name for appointment as an Associate Member.

5. Executive Director Reports
5.1 Department/Division Updates

A. Mr. Maresh reported the ILRS system went "live" in February. There have been some implementation issues but they are being addressed.

B. The expert witness contract has been established with a firm to provide expert witness reviews and testimony. The reviewing board member will still have the option of choosing the expert. If one recommended by the firm is not acceptable, an outside expert can still be obtained.

C. Mr. Maresh expanded on the content of the mandatory reporting rules. He indicated they focused on patient safety and personal knowledge of the reporter, not rumors. They also assure that those participating in voluntary monitoring programs are protected from the reporting requirements.

D. Mr. Maresh reported he continues to work on the medical marijuana project. A report is due July 1, 2008 to the legislature on safe and effective distribution systems for medical marijuana.

E. The Department is looking for volunteers to participate in a Workgroup on Unintentional Deaths by Opioid Poisoning. DOH is leading a quarterly workgroup to look at the problems associated with these types' deaths and to propose solutions to reduce the number of victims.

F. Mr. Maresh shared the news that Laurie Jenkins, Assistant Secretary, had announced she would be leaving DOH for the Deputy Health Director for the Tacoma-Pierce County Health Department.

6. Legislation Topics/Issues/Updates

Mr. Maresh reported the legislative session ended Thursday night. It was a very busy session with a large number of bills that were tracked by staff.

The bill with the most impact on the agency and health professions is 4SHB 1103 which passed both the House and Senate and is waiting for the Governor's signature.

The legislation makes changes to the summary suspension process, adding an additional step. Professional representation is required on hearing panels for all board/commission authority cases involving standard of care issues. All sexual misconduct cases that do not involve standard of care issues are being put under the Secretary's authority. The use of a sanctioning schedule is mandated. Background checks were expanded to allow national criminal background checks. The process to deny licenses was changed to put the burden of proof on the applicant. Revocation of licenses is allowed in some circumstances. The biggest impact is a pilot project involving the Medical Quality Assurance Commission and the Nursing Care Quality Assurance Commission to have a more autonomous role with more control over operation of their programs. The Chiropractic and Dental Commissions may choose to participate in the pilots. The pilots will run for five years beginning July 1, 2008.

7. Federation of State Medical Boards Annual Meeting Topics
 - 7.1 Report of the Nominating Committee
 - 7.2 Report of the Bylaws Committee
 - 7.2.1 Resolution 08-1 -- Review of Federation State Medical Boards Bylaws - Oregon Medical Board
 - 7.3 Report on Resolution 07-4, Complete Medical Records
 - 7.4 Resolution 08-2 - Communication Skills of Medical Professionals - North Carolina Medical Board
 - 7.5 Resolution 08-3 -- Five Year Review Policy - Iowa Board of Medical Examiners
 - 7.6 Resolution 08-4 -- Interstate Mobility of Physicians for Research, Training or Unique Patient Care Services - New Jersey State Board of Medical Examiners

There were no suggested positions on any of the resolutions. As voting delegate, Dr. Shelton was given authority to represent the Board.

8. (*Open Session*) Settlement Presentations
(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)
Deliberations are held in Executive Session.
 - 8.1 Stipulated Findings of Fact, Conclusions of Law and Agreed Order, Docket No. 07-06-A-11020P, Anthony Lopresti, DO - Presented by Miranda Bayne, Staff Attorney

Ms. Bayne presented a summary of the case and provided an overview of the proposed Agreed Order. Dr. Dugaw, reviewing board member, was recused from the decision making.

The decision was made in Executive Session. The respondent will be advised of the Board's decision by mail.

Closed Session

9. Statement of Allegations/Stipulation to Informal Disposition presentations (*Presentations are contingent upon agreements being reached between the parties prior to a board meeting.*)
Deliberations are held in Executive Session.

There were not STIDs to present.

10. Report Reviews/Investigative Authorizations

Seven (7) reports were reviewed. Four complaints were authorized for investigation.

The following cases were closed below threshold:

2008-124858

2008-125157

2008-125194

11. Disciplinary Case Reviews - Reviewing Board Member Reports

<u>CASE NUMBER</u>	<u>CASE DISPOSITION</u>
2007-06-00040P/ 2007-7550	Closed no cause for action; evidence does not support a violation
2007-09-00020P/ 2007-7648	Forward to Legal; Statement of Charges
2007-06-00020P/ 2007-7410	Closed no cause of action; evidence does not support a violation
2005-03-00080P 2005-7724	Closed; unique closure

12. Open case report

The current open case report was provided.

13. Compliance Issues

There were no compliance issues.

14. Application Review

Two applications were reviewed and approved for licensure.

15. Executive Session - Discuss personnel issues

Personnel issues relative to implementation of the pilot project in 1103 was discussed.

The meeting adjourned at 1:05 p.m.

Respectfully Submitted

Arlene Robertson
Program Manager

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